

William H. Gamage, Esq.
Nevada Bar No. 9024
LAW OFFICE OF WILLIAM GAMAGE
355 Hollins Hall
Las Vegas, Nevada 89145
PH: (702) 551-9617
FX: (702) 901-6125
Attorney for Defendant BENYIAHIA HEBBAR

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA

Plaintiff,

vs.

BENYIAHIA HEBBAR,

Defendant.

CASE NO.: 2:16-cr-00328-JCM-GWF

**STIPULATION TO CONTINUE
SENTENCING
(FIRST REQUEST)**

IT IS HEREBY STIPULATED AND AGREED, by and between Dayle Elieson, United States Attorney, and Christopher Burton, Assistant United States Attorney, counsel for the United States of America, and William Gamage, counsel for BENYIAHIA HEBBAR that the sentencing set for April 2, 2018 at 10:30 am in LV Courtroom 6A before Judge J. Mahan be vacated and set to a date and time convenient to the Court on or after May 1, 2018 based upon a pending Motion to Withdraw Guilty Plea set for hearing on April 19, 2018 at 10:30a.m..

This Stipulation is entered into for the following reasons:

1. The client is in custody but does not oppose the continuance.
2. Undersigned defense counsel was just substituted in and confirmed before Judge Foley on March 29, 2018. Counsel attempted to obtain the file that same day based upon representations of prior counsel but was denied the file when requested in

1 person after the hearing before Judge Foley. Counsel will attempt to again obtain the file
2 today.

3 3. Based upon confirmation of new counsel and Defendant's expressed desire
4 to go to trial on his case, the Court rescheduled his pending Motion to Withdraw Guilty
5 Plea to April 19, 2018 at 10:30 a.m. Based upon this action, the Court in a minute Order
6 instructed counsel to 'promptly file a stipulation' with this Court to vacate and
7 reschedule the pending sentencing date.
8

9 4. Counsel respectfully request to vacate and reschedule the pending
10 sentencing to a date on or after May 1, 2018 based upon the convenience of the Court.
11

12 5. The additional time requested herein is not sought for purposes of delay,
13 but merely to allow Defendant Hebbar to have his Motion for Withdrawal of Guilty Plea
14 fully heard before the Court.

15 6. Denial of this request for continuance would deny Defendant Hebbar his
16 right to Due Process and a fair hearing.
17

18 7. Additionally, denial of this request for continuance could result in a
19 miscarriage of justice.

20 8. This is the First stipulation to continue this hearing filed herein.

21 DATED THIS 30th day of March, 2018

DATED THIS 30th day of March, 2018

22 Dayle Elieson, United States Attorney

The Law Office of William Gamage, Esq.

23 /s/ Christopher Burton

/s/ William H. Gamage, Esq.

24 By: _____

By: _____

25 CHRISTOPHER BURTON,
26 Asst. United States Attorney

WILLIAM H. GAMAGE, ESQ.
Counsel to Defendant Ace Hart

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA

4 Plaintiff,

5 vs.

6 BENYIAHIA HEBBAR,

7 Defendant.
8

CASE NO.: 2:16-cr-00328-JCM-GWF

9 **STIPULATION TO CONTINUE
10 SENTENCING
11 (FIRST REQUEST)**

12 **FINDINGS OF FACT**

13 Based on the pending Stipulation of counsel, and good cause appearing
14 therefore, the Court finds that:

15 1. The client is in custody but does not oppose the continuance.

16 2. Undersigned defense counsel was just substituted in and confirmed
17 before Judge Foley on March 29, 2018. Counsel attempted to obtain the file that same
18 day based upon representations of prior counsel but was denied the file when
19 requested in person after the hearing before Judge Foley. Counsel will attempt to
20 again obtain the file today.

21 3. Based upon confirmation of new counsel and Defendant's expressed
22 desire to go to trial on his case, the Court rescheduled his pending Motion to
23 Withdraw Guilty Plea to April 19, 2018 at 10:30 a.m. Based upon this action, the
24 Court in a minute Order instructed counsel to 'promptly file a stipulation' with this
25 Court to vacate and reschedule the pending sentencing date.

26 4. Counsel respectfully request to vacate and reschedule the pending
27 sentencing to a date on or after May 1, 2018 based upon the convenience of the Court.

28 5. The additional time requested herein is not sought for purposes of delay,

1 but merely to allow Defendant Hebbbar to have his Motion for Withdrawal of Guilty
2 Plea fully heard before the Court.

3 6. Denial of this request for continuance would deny Defendant Hebbbar his
4 right to Due Process and a fair hearing.

5 7. Additionally, denial of this request for continuance could result in a
6 miscarriage of justice.

7 8. This is the First stipulation to continue this hearing filed herein.

8 For all of the above-stated reasons, the ends of justice would best be served by
9 a continuance of the calendar call and trial date.

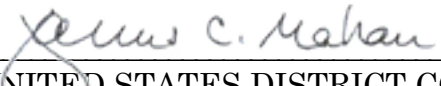
10 **CONCLUSIONS OF LAW**

11 The ends of justice are served as granting said continuance outweighs the best
12 interest of the public and the defendant in a speedy trial, since the failure to grant
13 said continuance would be likely to result in a miscarriage of justice, would deny the
14 parties herein sufficient time and the opportunity within which to be able to
15 effectively represent his client and thoroughly complete negotiations, taking into
16 account the exercise of due diligence.

17 **ORDER**

18 IT IS THEREFORE ORDERED, that SENTENCING on April 2, 2018 at 10:30
19 a.m., is vacated and reset on the **3rd day of May, 2018 at 10:30 a.m.**

20 DATED April 2, 2018.

21 
22 _____
23 UNITED STATES DISTRICT COURT
24 JUDGE JAMES MAHAN
25
26
27
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